

FILED

UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA 2010 JAN 25 A 10:22

Alexandria Division

CLERK US DISTRICT COURT
ALEXANDRIA, VA VIRGINIA

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UNITED STATES OF AMERICA

v.

ABEL NNABUE,

Defendant.

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CRIMINAL NO. 1:08CR385

Judge T.S. Ellis, III

UNDER SEAL

unsealed 9/16/10

GOVERNMENT'S SEALED MOTION TO REDUCE
SENTENCE AND SUPPORTING MEMORANDUM

The United States, by Neil H. MacBride, United States Attorney for the Eastern District of Virginia, and John Eisinger, Assistant United States Attorney, hereby moves pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure to reduce the defendant ABEL NNABUE's sentence based on the defendant's substantial assistance in the government's investigation and prosecution of others who have committed crimes.

I. Background

On October 16, 2008, ABEL NNABUE, entered a guilty plea to an Indictment charging him with conspiracy to commit bank fraud in violation of Title 18, United States Code, Section 1349. This Court sentenced the defendant to 54 months imprisonment on January 30, 2009.

II. Defendant's Substantial Assistance

After his arrest on August 2, 2008, law enforcement agents attempted to interview the defendant

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but the defendant refused to speak to the agents. After arriving in the Eastern District of Virginia in September, NNABUE and his counsel conducted several interviews with agents. During those interviews, the defendant provided some useful information that agents used to corroborate information provided by other defendants. However, the defendant was not proactive in his assistance and appeared to be downplaying his own role and that of others.

On April 7, 2009, the defendant testified at the trial of coconspirator HENRY OBILO (1:09cr47). The defendant was a secondary witness. NNABUE testified during trial that he saw OBILO making phone calls to financial institutions in furtherance of this scheme. NNABUE also identified OBILO's voice on recorded phone calls in which OBILO impersonated a HELOC account holder victim and a Bank of America employee in furtherance of the scheme. NNABUE was one of two witnesses who identified OBILO's voice on the recordings. His testimony was used to bolster that of other witnesses. The jury convicted OBILO of conspiring to commit bank fraud after approximately one hour and forty-five minutes of deliberations.

III. Recommendation

The defendant deserves substantial credit for his cooperation. His testimony, in part, led to the conviction of HENRY OBILO. Therefore, the defendant deserves a reduction of sentence. The Substantial Assistance Committee of the United States Attorney's Office carefully evaluated the defendant's cooperation. The Committee has approved a recommendation of a 30% reduction pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, resulting in a total sentence of 38 months. The United States accordingly makes that recommendation to the Court. Further, in accordance with this Court's Local Criminal Rule 49, the government respectfully requests that this motion and

memorandum and any response to it be filed under seal.

Respectfully submitted,

Neil H. MacBride
United States Attorney

By:



John Eisinger
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that I have sent by facsimile a true copy of the foregoing Government's Sealed Motion to Reduce Sentence and Supporting Memorandum to:

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This 25th day of January, 2010.



John Eisinger
Assistant United States Attorney